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73-16-5. Error in copying does not invalidate.

Any error made, if any, in copying the original compact in Section 73-16-2 hereof, shall be held not to invalidate the ratification of the compact in any way.

History: L. 1955, ch. 161, § 5.

CHAPTER 17

COLUMBIA RIVER COMPACT

(Superseded by Laws 1961, ch. 171, §§ 1 to 6.)

73-17-1 to 73-17-4. Superseded.

Superseded. — Sections 73-17-1 to 73-17-4 (L. 1955, ch. 171, §§ 1 to 5), constituting the ratifying provisions and the text of the Columbia River Interstate Compact entered into at

Portland, Oregon, on January 15, 1955, were superseded by Laws 1961, ch. 171, §§ 1 to 6. For present provisions, see § 73-19-6 et seq.

CHAPTER 18

STATE BOATING ACT

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- 73-18-22. Funds collected — Disposition.
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73-18-1. Statement of policy.

It is the policy of this state to regulate and promote safety for persons and property in and connected with the use, operation and equipment of vessels and to promote uniformity of laws and to adopt and pursue an educational program in relation thereto.

History: L. 1959, ch. 124, § 1; 1971, ch. 188, § 1.

Cross-References. — Department of Transportation, § 63-49-4.

COLLATERAL REFERENCES

California Law Review. — Water Recreation — Public Use of "Private" Waters, 52 Calif. L. Rev. 171.

Land and Water Law Review. — Water Appropriation for Recreation, 1 Land & Water L. Rev. 209.

Washington and Lee Law Review. — Boating Boom: Admiralty Jurisdiction Inland, 23 Wash. & Lee L. Rev. 169.

Wisconsin Law Review. — Chaos or Uniformity in Boating Regulations? The State as Trustee of Navigable Waters, 1965 Wis. L. Rev. 311.

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating § 7.

A.L.R. — Res ipsa loquitur with respect to personal injuries or death on or about ship, 1 A.L.R.3d 642.

Construction of provision of public liability insurance policy covering or excluding watercraft, 7 A.L.R.3d 663.

Liability for injuries to or death of water skiers, 8 A.L.R.3d 675.

Liability for injury or death of nonparticipant caused by water skiing, 67 A.L.R.3d 1218.

Liability of owner of powerboat for injury or death allegedly caused by one permitted to operate boat by owner, 71 A.L.R.3d 1018.

Liability of owner or operator of powered pleasure boat for injuries to swimmer or bather struck by boat, 98 A.L.R.3d 1127.

Products liability: liability of manufacturer or seller for injury or death caused by defect in boat or its parts, supplies, or equipment, 1 A.L.R.4th 411.

Public rights of recreational boating, fishing, wading, or the like in inland stream, the bed of which is privately owned, 6 A.L.R.4th 1030.

Criminal liability for injury or death caused by operation of pleasure boat, 8 A.L.R.4th 886.

Liability of owner or operator of pleasure boat for injury or death of guest passenger, 35 A.L.R.4th 104.

Admiralty jurisdiction: maritime nature of tort — modern cases, 80 A.L.R. Fed. 105.

73-18-2. Definitions.

As used in this chapter:

- (1) "Board" means the Board of Parks and Recreation.
- (2) "Boat livery" means an entity which holds any vessel for renting, leasing, or chartering.
- (3) "Carrying passengers for hire" means to transport persons on vessels or to lead persons on vessels for remuneration.
- (4) "Dealer" means any person who is licensed by the appropriate authority to engage in and who is engaged in the business of buying and selling vessels or of manufacturing them for sale.
- (5) "Division" means the Division of Parks and Recreation.
- (6) "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.
- (7) "Operate" means to navigate, control, or otherwise use a vessel.
- (8) "Operator" means the person who is in control of a vessel while it is in use.
- (9) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest by another person, reserved or created by agreement and securing payment or performance of an obligation. The term does not include a lessee under a lease not intended as security.
- (10) "Sailboat" means any vessel having one or more sails and propelled by wind.
- (11) "Vessel" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
- (12) "Wakeless speed" means an operating speed at which the vessel does not create or make a wake or white water trailing the vessel. This speed is not in excess of five miles per hour.
- (13) "Waters of this state" means any waters within the territorial limits of this state.

History: L. 1959, ch. 124, § 2; 1969, ch. 198, § 43; 1971, ch. 188, § 2; 1977, ch. 183, § 1; 1986, ch. 197, § 1; 1987, ch. 99, § 1.

Amendment Notes. — The 1986 amendment, in the introductory language, substituted "chapter" for "act"; in Subsection (1), substituted "type" for "description"; in Subsection (3), substituted "holding a proprietary interest" for "having the property" and "vessel" for "motorboat" in two places; deleted former Subsection (5), which read "'Person' means an individual, partnership, firm, corporation, association, or other entity" and redesignated

former Subsections (6) through (8) as present Subsections (5) through (7); in Subsection (6), substituted "'Board'" for "'Commission'" and deleted "when referring to general rule making or policy making functions but in all other references 'commission' means the division of parks and recreation" from the end; and added Subsections (8) through (12).

The 1987 amendment alphabetized and renumbered the subsections and inserted present Subsection (3).

Cross-References. — Board and Division of Parks and Recreation, §§ 63-11-12, 63-11-17.1.

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating § 1.

73-18-3. Enforcement of State Boating Act to be supervised by division.

The administration and enforcement of the State Boating Act shall be under the supervision and direction of the division.

History: L. 1959, ch. 124, § 3; 1961, ch. 170, § 1; 1967, ch. 176, § 48; 1969, ch. 198, § 44; 1986, ch. 197, § 2.

Amendment Notes. — The 1986 amendment deleted "of parks and recreation" at the end.

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating § 9.

73-18-3.5. Advisory council.

The board may appoint an advisory council representing various boating interests to seek recommendations on state boating policies.

History: C. 1953, 73-18-3.5, enacted by L. 1987, ch. 99, § 2.

73-18-4. Board may promulgate rules.

The board may promulgate rules:

- (1) creating a uniform waterway marking system which shall be obeyed by all vessel operators;
- (2) regulating the placement of waterway markers and other permanent or anchored objects on the waters of this state;
- (3) zoning certain waters of this state for the purpose of prohibiting the operation of vessels or motors for safety and health purposes only; and
- (4) regulating vessel operators who carry passengers for hire and setting a fee not to exceed \$10 for licensing these operators.

History: C. 1953, 73-18-4, enacted by L. 1987, ch. 99, § 3.

Repeals and Reenactments. — Laws 1987, ch. 99, § 3 repeals former § 73-18-4, as

amended by Laws 1986, ch. 197, § 3, relating to adoption of rules by the Board of Parks and Recreation, and enacts the present section.

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating § 7.

73-18-5. Repealed.

Repeals. — Section 73-18-5 (L. 1959, ch. 124, § 5), relating to expenses of members of the advisory council of the Board of Parks and

Recreation, was repealed by Laws 1969, ch. 198, § 62.

73-18-6. Numbering of motorboats and sailboats required — Exception.

(1) Every motorboat and sailboat on the waters of this state shall be numbered. No person shall operate or give permission for the operation of any motorboat or sailboat on the waters of this state unless the motorboat or sailboat is numbered in accordance with:

(a) this chapter;

(b) applicable federal law; or

(c) a federally-approved numbering system of another state, if the owner is a resident of that state and his motorboat or sailboat has not been in this state in excess of 60 days for the calendar year.

(2) The number assigned to a motorboat or sailboat in accordance with this chapter, applicable federal law, or a federally-approved numbering system of another state shall be displayed on each side of the bow of the motorboat or sailboat, except this requirement does not apply to any vessel which has a valid marine document issued by the United States Coast Guard.

History: L. 1959, ch. 124, § 6; 1971, ch. 188, § 4; 1977, ch. 183, § 2; 1987, ch. 99, § 4.

Amendment Notes. — The 1987 amend-

ment rewrote this section to such an extent that a detailed analysis is impracticable.

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating §§ 20 to 22.

73-18-7. Registration requirements — Exemptions — Agents — Records public — Period of registration and renewal — Expiration — Notice of transfer of interest or change of address — Duplicate registration card — Invalid registration — Powers of board.

(1) No person shall operate or give permission for the operation of any motorboat or sailboat on the waters of this state unless the motorboat is registered in accordance with this chapter or is exempt from registration as provided for in Section 73-18-9.

(2) The owner of each motorboat or sailboat required to be registered by this state shall file an application for registration with the division on forms approved by the division. The application shall be signed by the owner of the motorboat or sailboat and accompanied by a fee set by the board. This fee may not exceed \$10 per year. The division, before issuing a registration card and registration decals, shall require from each applicant a certificate from the county assessor of the county in which the motorboat or sailboat has situs for taxation containing one of the following statements:

(a) the property tax on the motorboat or sailboat for the current year has been paid;

(b) in the county assessor's opinion, the property tax is a lien on real property sufficient to secure the payment of the property tax; or

(c) the motorboat or sailboat is exempt by law from payment of property tax for the current year.

(3) Upon receipt of the application in the approved form, the division shall record the receipt and issue to the applicant registration decals and a registration card which state the number assigned to the motorboat or sailboat and the name and address of the owner. The registration card shall be available for inspection on the motorboat or sailboat for which it was issued, whenever that motorboat or sailboat is in operation.

(4) The assigned number shall:

(a) be painted or permanently attached to each side of the forward half of the motorboat or sailboat;

(b) consist of plain vertical block characters of not less than three inches in height;

(c) contrast with the color of the background and be distinctly visible and legible;

(d) have spaces or hyphens equal to the width of a letter between the letter and numeral groupings; and

(e) read from left to right.

(5) Any vessel which has a valid marine document issued by the United States Coast Guard is exempt from the number display requirements of Subsection (4).

(6) The nonresident owner of any motorboat or sailboat already covered by a valid number, which has been assigned to it pursuant to federal law or a federally-approved numbering system of his resident state, shall be exempt from registration while operating the motorboat or sailboat on the waters of this state unless he is operating in excess of the reciprocity period provided for in Subsection 73-18-9(1).

(7) If the ownership of a motorboat or sailboat changes, a new application form with the fee shall be filed with the division and a new registration card and registration decals shall be issued in the same manner as provided for in Subsections (2) and (3). The current number assigned to the vessel shall be reassigned to the new owner to display on the motorboat or sailboat.

(8) If the United States Coast Guard has in force an overall system of identification numbering for motorboats or sailboats within the United States, the numbering system employed under this chapter by the board shall be in conformity with that system.

(9) The division may authorize any person to act as its agent for the registration of motorboats and sailboats. Any number assigned and any registration card and registration decals issued by an agent of the division in conformity with this chapter and rules of the board shall be valid.

(10) All records of the division made or kept pursuant to this section are public records.

(11) Every registration, registration card, and decal issued under this chapter shall continue in effect for a period set by the board. A registration may be renewed by the owner in the same manner provided for in the initial application. The current number assigned to the vessel shall be reassigned when the registration is renewed.

(12) The board shall fix a day and month of the year on which registrations, registration cards, and registration decals expire.

(13) The owner shall notify the division of the transfer of all or any part of his interest, other than creation of a security interest, in a motorboat or

sailboat registered in this state under Subsections (2) and (3) or of the destruction or abandonment of the motorboat or sailboat. This notification must take place within 15 days of the transfer, destruction, or abandonment. The transfer, destruction, or abandonment of a motorboat or sailboat terminates its registration except that in the case of a transfer of a part interest which does not affect the owner's right to operate a motorboat or sailboat, the transfer shall not terminate the registration.

(14) The registered owner shall notify the division within 15 days if his address changes from the address appearing on the registration card and shall, as a part of this notification, furnish the division with his new address. The board may provide in its rules for the surrender of the registration card bearing the former address and its replacement with a new registration card bearing the new address, or for the alteration of an outstanding registration card to show the new address of the holder.

(15) If the registration card is lost or stolen, a fee of \$4 may be collected by the division for the issuance of a duplicate. If the registration decals are lost or stolen, a fee of \$3 may be collected by the division for the issuance of duplicate decals.

(16) No number other than the number assigned to a motorboat or sailboat or a number for a motorboat or sailboat granted reciprocity under this chapter may be painted, attached, or otherwise displayed on either side of the bow of a motorboat or sailboat.

(17) A motorboat or sailboat registration and number shall be invalid if obtained by knowingly falsifying an application for registration.

(18) The board may:

- (a) designate the suffix to assigned numbers;
- (b) adopt rules for the display of registration decals;
- (c) adopt rules for the issuance and display of dealer numbers and registrations; and
- (d) adopt rules for the issuance and display of temporary registrations.

History: L. 1959, ch. 124, § 7; 1961, ch. 170, § 1; 1971, ch. 188, § 5; 1986, ch. 197, § 4; 1987, ch. 99, § 5.

Amendment Notes. — The 1987 amendment rewrote this section to such an extent

that a detailed analysis is impracticable.

Cross-References. — Certificate of title required for registration, transfer or renewal, § 41-1-149.

NOTES TO DECISIONS

Use of registration in determining ownership.

Registration of boat pursuant to Subsection (3) of this section was properly considered in

determining ownership of boat, since registration must be made by owner. *Young v. Saunders*, 24 Utah 2d 284, 470 P.2d 388 (1970).

73-18-8. Safety equipment required to be on board vessels.

- (1) (a) Each vessel shall have, for each person on board, one personal flotation device which is approved for the type of use by the commandant of the United States Coast Guard.
- (b) Each personal flotation device shall be:
 - (i) in serviceable condition;
 - (ii) legally marked with the United States Coast Guard approval number; and

- (iii) of an appropriate size for the person for whom it is intended.
- (c) The board may exempt certain types of vessels from the provisions of Subsection (1)(a) under certain conditions or upon certain waters.
- (d) The board may require by rule for personal flotation devices to be worn:
 - (i) while a person is on board a certain type of vessel;
 - (ii) by a person under a certain age; or
 - (iii) on certain waters of the state.
- (e) For vessels 16 feet or more in length, there shall also be on board, one Type IV throwable personal flotation device which is approved for this use by the commandant of the United States Coast Guard.
- (2) Each vessel shall display navigation lights when the vessel is on the waters of this state between sunset and sunrise.
- (3) If a vessel is not entirely open and it carries or uses any flammable or toxic fluid in any enclosure for any purpose, the vessel must be equipped with an efficient natural or mechanical ventilation system which is capable of removing resulting gases prior to and during the time the vessel is occupied by any person.
- (4) Each vessel shall have fire extinguishing equipment on board.
- (5) Any inboard gasoline engine shall be equipped with a carburetor back-fire flame control device.
- (6) The board may:
 - (a) require additional safety equipment by rule; and
 - (b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment.
- (7) A person may not operate or give permission for the operation of a vessel which is not equipped as required by this section or rules promulgated under this section.

History: C. 1953, 73-18-8, enacted by L. 1987, ch. 99, § 6.

Repeals and Reenactments. — Laws 1987, ch. 99, § 6 repeals former § 73-18-8, as amended by Laws 1986, ch. 197, § 5, relating

to safety equipment required to be on board vessels, and enacts the present section.

Cross-References. — Water safety regulations, § 73-18b-1 et seq.

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating §§ 10 to 12.

73-18-9. Exemptions from registration.

Registration under this chapter is not required for any of the following:

- (1) a motorboat or sailboat already covered by a valid registration issued by its nonresident owner's resident state and it has not been within this state in excess of 14 days for the calendar year;
- (2) a motorboat or sailboat from a country other than the United States temporarily using the waters of this state;
- (3) a motorboat or sailboat whose owner is the United States, a state or subdivision thereof;
- (4) a ship's lifeboat; or
- (5) a motorboat or sailboat belonging to a class of vessels which is exempted from registration by the board after the board finds:

(a) that the registration of motorboats or sailboats of this class will not materially aid in their identification; and

(b) that the United States Coast Guard has a numbering system applicable to the class of motorboats or sailboats to which the motorboat or sailboat in question belongs, and the motorboat or sailboat would also be exempt from numbering if it were subject to federal law.

History: L. 1959, ch. 124, § 9; 1971, ch. 188, § 6; 1986, ch. 197, § 6; 1987, ch. 99, § 7.

Amendment Notes. — The 1987 amend-

ment rewrote this section to such an extent that a detailed analysis is impracticable.

73-18-10. Owner of boat livery — Duties.

(1) The owner of a boat livery shall keep a record of the following: the name and address of the person hiring any vessel; the identification number of the vessel; and the vessel's departure date and time; and the vessel's expected time of return. The record shall be preserved for at least one year.

(2) Neither the owner of a boat livery nor his agent or employee may permit any vessel to depart from the premises of the boat livery unless the owner has equipped it as required under this chapter and unless he has advised the lessee or renter of the vessel of all rules promulgated under this chapter which the lessee or renter must obey.

History: L. 1959, ch. 124, § 10; 1986, ch. 197, § 7.

Amendment Notes. — The 1986 amendment, in Subsection (1), deleted "which is designed or permitted by him to be operated as a motorboat" after "hiring any vessel" and substituted "one year" for "thirty days" at the end;

in Subsection (2), substituted "the premises of the boat livery" for "his premises" and inserted "unless he has advised the lessee or renter of the vessel of all rules promulgated under this chapter which the lessee or renter must obey"; and made minor stylistic changes.

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating §§ 81, 82.

A.L.R. — Liability of owner or operator of

boat livery for injury to patron, 94 A.L.R.3d 876.

73-18-11. Regulation of muffling devices.

The board shall adopt rules for the regulating of muffling devices on all vessels.

History: L. 1959, ch. 124, § 11; 1986, ch. 197, § 8.

Amendment Notes. — The 1986 amend-

ment substituted "board" for "commission," "rules" for "regulations," and "vessels" for "boats."

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating § 12.

73-18-12. Operation in willful or wanton disregard for safety deemed misdemeanor.

No person may operate any vessel, or manipulate any water skis, aqua-plane, or similar device in a willful or wanton disregard for the safety of persons or property. A violation of this section is a class B misdemeanor.

History: C. 1953, 73-18-12, enacted by L. 1987, ch. 118, § 1.

Repeals and Reenactments. — Laws 1987, ch. 118, § 1 repeals former § 73-18-12, as amended by Laws 1983, ch. 99, § 19, relating

to reckless operation of vessels, and enacts the present section.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

73-18-12.1. Operating under influence — Local ordinances to be consistent with chapter.

Any ordinance adopted by a local authority that governs a person's operation of a vessel while having alcohol in the blood or breath, or while under the influence of alcohol or drugs, shall be consistent with the provisions of this chapter.

History: C. 1953, 73-18-12.1, enacted by L. 1987, ch. 118, § 2.

73-18-12.2. Boating under the influence of alcohol or drugs or with high blood or breath alcohol content — Criminal punishment — Arrest without a warrant.

(1) (a) It is unlawful and punishable as provided in this section for any person to operate a vessel on the waters of this state if:

(i) the person has a blood or breath alcohol concentration of .08 grams or greater, as shown by any chemical test given within two hours after the alleged operation; or

(ii) the person is under the influence of alcohol or any drug or the combined influence of alcohol and any drug to a degree which renders the person incapable of safely operating a vessel.

(b) The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense against any charge of violating this section.

(2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol per 210 liters of breath.

(3) For the purposes of this section, the standard of negligence is that of simple negligence, the failure to exercise that degree of care which an ordinarily reasonable and prudent person exercises under like or similar circumstances.

(4) (a) Every person who is convicted of a violation of Subsection (1) is guilty of a class B misdemeanor, however, if the person has inflicted a bodily injury upon another as a proximate result of having operated the vessel in a negligent manner, he is guilty of a class A misdemeanor.

(b) No portion of any sentence imposed under Subsection (a) may be suspended.

(5) In addition to the penalties provided for in Subsection (4), the court shall, upon a first conviction of a violation of this section:

(a) impose a mandatory jail sentence of not less than 48 consecutive hours nor more than 240 hours, with emphasis on serving in the drunk tank of the jail, or require the person to work in a community-service work program for not less than 24 nor more than 50 hours; and

(b) order the person to participate in an assessment and educational series at a licensed alcohol rehabilitation facility.

(6) Upon a second conviction within five years after a first conviction under this section or under a local ordinance similar to this section adopted in compliance with Section 73-18-12.1, the court shall, in addition to the penalties provided for in Subsection (4):

(a) impose a mandatory jail sentence of not less than 240 consecutive hours nor more than 720 hours, with emphasis on serving in the drunk tank of the jail, or require the person to work in a community-service work program for not less than 80 nor more than 240 hours; and

(b) order the person to participate in an assessment and educational series at a licensed alcohol rehabilitation facility. The court may, in its discretion, order the person to obtain treatment at an alcohol rehabilitation facility.

(7) Upon a subsequent conviction within five years after a second conviction under this section or under a local ordinance similar to this section adopted in compliance with Section 73-18-12.1, the court shall, in addition to the penalties provided for in Subsection (4):

(a) impose a mandatory jail sentence of not less than 720 consecutive hours nor more than 2,160 hours with emphasis on serving in the drunk tank of the jail, or require the person to work in a community-service work program for not less than 240 nor more than 720 hours; and

(b) order the person to obtain treatment at an alcohol rehabilitation facility.

(8) A person convicted of a violation of this section is not eligible for parole or probation until any sentence imposed under this section has been served. Probation or parole resulting from a conviction for a violation of this section or a local ordinance similar to this section adopted in compliance with Section 73-18-12.1 may not be terminated until all fines and fees, including fees for restitution and rehabilitation costs, assessed against the convicted person, have been paid.

(9) (a) The provisions in Subsections (5), (6), and (7) requiring a sentencing court to order a convicted person to participate in an assessment and educational series at a licensed alcohol rehabilitation facility or to obtain treatment at an alcohol rehabilitation facility apply to a conviction for a violation of Section 73-18-12 that qualifies as a prior offense under Subsection (10). A court shall render the same order regarding education or treatment at an alcohol rehabilitation facility for a first, second, or subsequent conviction under Section 73-18-12 that qualifies as a prior offense under Subsection (10), as the court would render for a first, second, or subsequent conviction of a violation of Subsection (1).

(b) For purposes of determining whether a conviction under Section 73-18-12 which qualified as a prior conviction under Subsection (10) is a

first, second, or subsequent conviction under this subsection, a previous conviction under either Section 73-18-12 or 73-18-12.2 is considered a prior conviction. Any alcohol rehabilitation program and any community-based or other education program provided for in this section shall be approved by the Department of Social Services.

- (10) (a) When the prosecution agrees to a plea of guilty or no contest to a charge of a violation of Section 73-18-12 or of a local ordinance similar to that section adopted in compliance with Section 73-18-12.1 the prosecution shall state for the record a factual basis for the plea, including whether there had been consumption of alcohol or drugs by the defendant in connection with the offense. The statement shall be an offer of proof of the facts which shows whether there was consumption of alcohol or drugs in connection with the offense.

(b) The court shall advise the defendant before accepting the plea offered under this subsection of the consequences of a violation of Section 73-18-12 as follows. If the court accepts the defendant's plea of guilty or no contest to a charge of violating Section 73-18-12, and the prosecutor states for the record that there was consumption of alcohol or drugs by the defendant in connection with the offense, the resulting conviction is a prior offense for the purposes of Subsection (9).

- (11) A peace officer may, without a warrant, arrest a person for a violation of this section when the peace officer has probable cause to believe the violation has occurred, although not in his presence, and if the peace officer has probable cause to believe that the violation was committed by the person.

History: C. 1953, 73-18-12.2, enacted by L. 1987, ch. 118, § 3; 1987 (1st S.S.), ch. 8, § 5.

Amendment Notes. — The 1987 (1st S.S.) amendment, effective June 5, 1987, substituted "breath alcohol concentration of .08 grams or greater" for "breath alcohol content of .08% or greater by weight" in Subsection (1)(a)(i); substituted the present provisions of Subsection (2) for the former provisions which read "Percent by weight of alcohol in the blood shall be

based on grams of alcohol per 100 cubic centimeters of blood, and the percent by weight of alcohol in the breath shall be based upon grams of alcohol per 210 liters of breath"; and substituted "community-service work program" for "community-service work project" in Subsection (7)(a).

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

73-18-12.3. Operating under the influence — Standards for administration and interpretation of chemical analysis.

- (1) The commissioner of public safety shall establish standards for the administration and interpretation of chemical analysis of a person's breath including standards of training.

(2) In any action or proceeding in which it is material to prove that a person was operating a vessel while under the influence of alcohol or with a blood or breath alcohol content statutorily prohibited, documents offered as memoranda or records of acts, conditions, or events to prove that the analysis was conducted in conformance with standards established under Subsection (1) are admissible if:

(a) the judge finds that they were made in the regular course of the investigation at or about the time of the act, condition, or event; and

(b) the source of information from which made and the method and circumstances of their preparation indicate their trustworthiness.

(3) If the judge finds that the standards established under Subsection (1) and the conditions of Subsection (2) have been met, there is a presumption that the test results are valid and further foundation for introduction of the evidence is unnecessary.

History: C. 1953, 73-18-12.3, enacted by L. 1987, ch. 118, § 4.

73-18-12.4. Operating under the influence — Admissibility of chemical test — Other evidence.

(1) In any action or proceeding in which it is material to prove that a person was operating a vessel while under the influence of alcohol or with a blood or breath alcohol content statutorily prohibited, the results of any chemical test as authorized in Section 73-18-12.6 are admissible as evidence.

(2) If the chemical test was taken more than two hours after the alleged operation, the test result is admissible as evidence of the person's blood or breath alcohol level at the time of the alleged operation, but the trier of fact shall determine what weight shall be given to the test results.

(3) The provisions of this section do not prevent a court from receiving any other admissible evidence as to a defendant's blood or breath alcohol level at the time of the alleged operation.

History: C. 1953, 73-18-12.4, enacted by L. 1987, ch. 118, § 5.

COLLATERAL REFERENCES

A.L.R. — Admissibility in criminal case of blood-alcohol test where blood was taken despite defendant's objection or refusal to submit to test, 14 A.L.R.4th 690.

Destruction of ampoule used in alcohol breath test as warranting suppression of result of test, 19 A.L.R.4th 509.

73-18-12.5. Operating under the influence — Prosecuting violations of local ordinances.

Attorneys of cities and towns may prosecute alleged violations of a local ordinance adopted in compliance with Section 73-18-12.1.

History: C. 1953, 73-18-12.5, enacted by L. 1987, ch. 118, § 6.

73-18-12.6. Operating under the influence — Implied consent to chemical tests for alcohol or drugs — Refusal to submit — Revocation of registration — Court action on revocation — Person incapable of refusal — Results of test available — Who may give test — Evidence.

(1) (a) A person operating a vessel on the waters of this state is considered to have given his consent to any chemical test of his breath, blood, or

urine for the purpose of determining whether he was operating a vessel while having a blood or breath alcohol content which is statutorily prohibited, or while under the influence of alcohol, any drug, or combination of alcohol and any drug, so long as the test is administered at the direction of a peace officer having grounds to believe that person to have been operating a vessel while having a blood or breath alcohol content which is statutorily prohibited, or while under the influence of alcohol, any drug, or combination of alcohol and any drug. A peace officer shall determine which test shall be administered.

(b) A person who has been requested under this section to submit to any chemical test of his breath, blood, or urine, does not have the right to select the test to be administered. The failure or inability of a peace officer to arrange for any specific test is not a defense with regard to taking a test requested by the peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test.

(2) If the person has been placed under arrest and has then been requested by a peace officer to submit to any one or more of the chemical tests provided in Subsection (1) and refuses to submit to any chemical test, the person shall be warned by the peace officer requesting the test that a refusal to submit to the test is admissible in civil or criminal proceedings as provided under Subsection (8). Following this warning, unless the person immediately requests the chemical test as offered by a peace officer be administered, no test shall be given and the peace officer shall submit a sworn report, within five days after the date of the arrest, that he had grounds to believe the arrested person had been operating a vessel while having a blood or breath alcohol content which is statutorily prohibited, or while under the influence of alcohol or any drug, or combination of alcohol and any drug and that the person had refused to submit to any chemical test as set forth in Subsection (1).

(3) Within 20 days after receiving a sworn report from a peace officer to the effect that the person has refused any chemical test, the division shall notify the person of the date and time of his hearing before the division. If at that hearing the division determines that the person was granted the right to submit to a chemical test and refused to submit to any test, or if the person fails to appear before the division as required in the notice, the division shall revoke the registration of any vessel registered in the person's name or any vessel registered jointly in his name and another person's name. Any registration revoked may not be renewed for a period of one year following the date of revocation. The division shall also assess against the person a fee of \$25 to cover administrative costs. The fee must be paid before any vessel registration is renewed.

(4) Any person whose registration has been revoked by the division under the provisions of this section shall have the right to file a petition within 30 days after the revocation for a hearing in the district court for the county in which the person resides. The court is hereby vested with jurisdiction, and it shall set the trial de novo upon ten days' written notice to the division and thereupon take testimony and examine the facts of the case and determine whether the petitioner's registration is subject to revocation under the provisions of this chapter. If the person obtains an unappealed court decision that the revocation was not proper, the fee provided in Subsection (3) shall be cancelled.

(5) Any person who is unconscious, or in any other condition rendering him incapable of refusing to submit to any chemical test is considered not to have withdrawn the consent provided for in Subsection (1), and any test may be administered whether or not the person has been arrested.

(6) Upon the request of the person who was tested, the results of his test shall be made available to him.

(7) Only a physician, registered nurse, practical nurse, or person authorized under Subsection 26-1-30(19), acting at the request of a peace officer, may withdraw blood for the purpose of determining alcoholic or drug content. This limitation does not apply to the taking of a urine or breath specimen. Any physician, registered nurse, practical nurse, or person authorized under Subsection 26-1-30(19) who, at the direction of a peace officer, draws a sample of blood from any person whom the peace officer has reason to believe is operating a vessel in violation of this chapter, or hospital or medical facility at which the sample is drawn, is immune from any civil or criminal liability arising from it, if the test is administered according to standard medical practice.

(8) The person to be tested may, at his own expense, have a physician of his own choosing administer any chemical test in addition to any test administered at the direction of the peace officer. The failure or inability to obtain the additional test does not affect admissibility of the results of any test taken at the direction of a peace officer, nor should it preclude or delay any test to be taken at the direction of a peace officer. Any additional test shall be administered subsequent to any test administered at the direction of the peace officer.

(9) For the purpose of determining whether to submit to any chemical test, the person to be tested does not have the right to consult an attorney nor is the person permitted to have an attorney, physician, or other person present as a condition for the taking of any test.

(10) (a) If a person under arrest has been requested by a peace officer to submit to a breath test only, and the person does take the breath test, the peace officer may request additional tests of the person's blood and urine for the purposes of detecting the presence of drugs or alcohol.

(b) If a person under arrest refuses to submit to any chemical test under this section, evidence of refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating a vessel while under the influence of alcohol or any drug or combination of alcohol and any drug.

History: C. 1953, 73-18-12.6, enacted by L. 1987, ch. 118, § 7.

COLLATERAL REFERENCES

A.L.R. — Propriety of search involving removal of natural substance or foreign object from body by actual or threatened force, 66 A.L.R. Fed. 119.

73-18-12.7. Operating under the influence — Seizure and impoundment of vessel.

The Legislature finds that it is contrary to the safety of the public to leave vessels unattended on the waters of this state.

(1) If a peace officer arrests or cites the operator of a vessel for violating Section 73-18-12.2 or a local ordinance similar to Section 73-18-12.2,

which complies with Section 73-18-12.1, the peace officer shall seize and impound the vessel. If necessary for transportation of the vessel for impoundment, the trailer may be used to transport the vessel.

(2) If a registered owner of the vessel, other than the driver, is present at the time of arrest, the peace officer may release the vessel to that registered owner, but only if the registered owner:

- (a) requests removal of the vessel from the scene;
- (b) presents to the peace officer sufficient identification to prove ownership of the vessel; and
- (c) would not, in the judgment of the peace officer, be in violation of Section 73-18-12.2 or a local ordinance adopted in compliance with Section 73-18-12.1, if permitted to operate the vessel, and if the vessel is legally operable.

(3) Any peace officer who impounds a vessel under this section shall remove, or cause the vessel to be removed, to the nearest accessible docking area that meets the standards set by rule by the Division of Parks and Recreation, or if there is none, another reasonably safe place. The standards set by the division shall be fair and reasonable and shall be unrestrictive as to number of docking areas per geographical area. The peace officer or agency by whom the peace officer is employed shall, within 24 hours after the seizure, notify the division of the seizure and impoundment. The notice shall set forth the operator's name; a description of the vessel, its identification number, if any, and its assigned number; the date, time, and place of impoundment; the reason for impoundment; and the location of the dock or other place where the vessel is stored.

(4) Upon receipt of notice, the division shall give notice to the registered owner of the vessel in the same manner as prescribed for vehicles by Section 41-1-16. The notice shall set forth the date, time, and place of impoundment; the name of the person operating the vessel at the time of seizure; the reason for seizure and impoundment; and the location where the vessel is stored. It shall also inform the registered owner that the person is responsible for payment of transportation charges, impound fees, and storage fees charged against the vessel. The notice shall also inform the registered owner of the vessel of the conditions prescribed in Subsection (5) which shall be satisfied before the vessel may be released.

(5) The impounded vessel shall be released after the registered owner or the owner's agent:

- (a) makes a claim for release of the vessel at any state office designated by the division;
- (b) pays an impound fee of \$25;
- (c) presents identification sufficient to prove ownership of the impounded vessel; and
- (d) pays all transportation, impound, and storage fees. The transportation and storage fees shall be paid to the docking area or other storage facility where the vessel is stored. All impound fees assessed under this subsection are dedicated revenue to the division.

(6) Any impounded vessel not claimed by the registered owner or the owner's agent within 60 days shall be sold according to the guidelines of Section 41-1-117, except that for purposes of this section "department" means the Department of Natural Resources and "vehicle" shall be con-

strued to mean "vessel." The proceeds, if any, shall be disposed by the same procedure as under Section 41-1-117. The date of impoundment is considered the date of seizure for purposes of computing the time period.

(7) Transportation and storage fees shall be established by the division and shall be reviewed by the division annually to ensure equity for vessel owners and transportation and storage operators. Transportation, impound fees, or storage fees are a lien on the vessel.

(8) The registered owner of the vessel, upon the payment of all fees and charges incurred in the seizure and impoundment of the owner's vessel, has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vessel whose actions caused the impoundment.

(9) No liability may be imposed upon any peace officer, the state, or any of its political subdivisions on account of the enforcement of this section.

History: C. 1953, 73-18-12.7, enacted by L. 1987, ch. 118, § 8.

73-18-12.8. Operating under the influence — Removal or impoundment of vehicle used to tow impounded vessel.

A vehicle used to tow a vessel which is impounded under this chapter may be removed under the provisions of Subsection 41-6-44.30(2), but if no person is able to move the vehicle under that section, the vehicle may be impounded if leaving it unattended is contrary to the safety of the public.

History: C. 1953, 73-18-12.8, enacted by L. 1987, ch. 118, § 9.

73-18-13. Duties of operator involved in accident — Notification and reporting procedures — Use of accident reports — Giving false information as misdemeanor.

(1) It is the duty of the operator of a vessel involved in an accident, if he can do so without seriously endangering his own vessel, crew, or passengers, to render aid to those affected by the accident as may be practicable. The operator shall also give his name, address, and identification of his vessel in writing to any person injured or to the owner of any property damaged in the accident.

(2) The board shall adopt rules governing the notification and reporting procedure for vessels involved in accidents. Such rules shall be consistent with federal requirements.

(3) All accident reports shall be for the confidential use of the division or other state agencies having use for the records for accident prevention purposes, except that the division may disclose the identity of a person involved in an accident when the person's identity is not otherwise known or when the person denies his presence at the accident. No report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the

division shall furnish upon demand of any person who has, or claims to have, made the report or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the division solely to prove a compliance or a failure to comply with the requirement that a report be made to the division. Reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (4).

(4) Any person who gives false information, knowingly or having reason to believe it is false, in an oral or written report as required in this chapter, is guilty of a class A misdemeanor.

History: L. 1959, ch. 124, § 13; 1977, ch. 183, § 4; 1987, ch. 99, § 8.

Amendment Notes. — The 1987 amendment rewrote this section to such an extent

that a detailed analysis is impracticable.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating § 19.

73-18-14. Transmittal of information to official or agency of United States.

In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the division under Subsection 73-18-13(2) shall be transmitted to the official or agency of the United States.

History: L. 1959, ch. 124, § 14; 1986, ch. 197, § 9.

Amendment Notes. — The 1986 amend-

ment substituted "division under Subsection" for "commission pursuant to section" and made minor stylistic changes.

73-18-15. Board to adopt rules concerning water skiing and aquaplane riding and use of other devices towed behind a vessel.

The board shall adopt rules for the regulation and safety of water skiing and aquaplane riding, and the use of other devices which are towed behind a vessel.

History: L. 1959, ch. 124, § 15; 1986, ch. 197, § 10.

Amendment Notes. — The 1986 amendment substituted "board" for "commission," "rules" for "regulations," and "regulation" for

"regulating" and inserted "and the use of other devices which are towed behind a vessel."

Cross-References. — Water safety regulations, § 73-18b-1 et seq.

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating §§ 54, 61.

A.L.R. — Liability for injuries to or death of water skiers, 8 A.L.R.3d 675.

Liability for injury or death of nonparticipant caused by water skiing, 67 A.L.R.3d 1218.

Water sports, amusements, or exhibitions as nuisance, 80 A.L.R.3d 1124.

73-18-15.1. Promulgation of vessel navigation and steering rules.

The board may promulgate vessel navigation and steering rules for the waters of the state.

History: C. 1953, 73-18-15.1, enacted by L. 1987, ch. 99, § 9.

73-18-15.2. Minimum age of operators without supervision — Exception.

A person under 16 years of age shall not operate a motorboat or sailboat on the waters of this state, unless he is accompanied by a person who is at least 18 years of age; except a person under 16 years of age may operate a single-person capacity motorboat or sailboat, provided he is under the direct supervision of a person who is at least 18 years of age.

History: C. 1953, 73-18-15.2, enacted by L. 1987, ch. 99, § 10.

73-18-16. Regattas, races, exhibitions — Rules.

The division may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions on any waters of this state. The board may adopt rules concerning the safety of vessels and persons, either as observers or participants.

History: L. 1959, ch. 124, § 16; 1986, ch. 197, § 11; 1987, ch. 99, § 11.

Amendment Notes. — The 1986 amendment substituted "division" for "commission" throughout the section, inserted "using the waters of the state" in the second sentence, and made minor stylistic changes.

The 1987 amendment, in the second sen-

tence, substituted "may adopt rules concerning safety of vessels and persons" for "shall adopt, and may from time to time amend, rules concerning the safety of vessels and persons using the waters of the state" and deleted the former third, fourth and last sentences, pertaining to applications for permission to hold regattas.

73-18-17. Scope of application of chapter — Identical local ordinances authorized — Application for special local rules.

(1) This chapter, and other applicable laws of this state govern the operation, equipment, and numbering of vessels whenever any vessel is operated on the waters of this state, or when any activity regulated by this chapter takes place on the waters of this state. Nothing in this chapter prevents the adoption of any ordinance or local law relating to operation and equipment of vessels the provisions of which are identical to the provisions of this chapter, amendments to this chapter, and rules promulgated under this chapter. Ordinances or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of this chapter, amendments to this chapter, and rules promulgated under this chapter.

(2) Any political subdivision of this state may, at any time, but only after public notice, formally apply to the board for special rules concerning the

operation of vessels on any waters within its territorial limits. The political subdivision shall set forth in the application the reasons which make special rules necessary or appropriate.

History: L. 1959, ch. 124, § 17; 1986, ch. 197, § 12; 1987, ch. 99, § 12.

Amendment Notes. — The 1986 amendment substituted "chapter" for "act" throughout the section; deleted "and all other matters relating thereto" after "equipment, and numbering" near the beginning; in Subsection (2) inserted "political" before "subdivision" and

substituted "board" for "commission"; in Subsection (3) substituted "board may make" for "commission is hereby authorized to make"; and made minor stylistic changes.

The 1987 amendment deleted former Subsection (3), pertaining to rules for waters in subdivisions of the state.

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating §§ 7, 8.

73-18-18. Liability of owner for injury or damage occasioned by negligent operation of vessel by minor.

The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel, by a minor under the age of 18 years operating such vessel with the express or implied consent of the owner, whether under the laws of this state or by neglecting to observe such ordinary care and such operation as the rules of common law require.

History: L. 1959, ch. 124, § 18; 1961, ch. 170, § 1.

NOTES TO DECISIONS

Vicarious liability of owner.

Trial court erred in failing to give requested instruction on vicarious liability of owner of

boat for the actions of a minor operator. *Pearce v. Wistisen*, 701 P.2d 489 (Utah 1985).

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating §§ 36, 39.

A.L.R. — Admiralty jurisdiction: maritime

nature of tort — modern cases, 80 A.L.R. Fed. 105.

73-18-19. Publication of rules and regulations.

The rules promulgated under this chapter shall be published as required by Chapter 46a, Title 63, the Utah Administrative Rulemaking Act.

History: L. 1959, ch. 124, § 19; 1961, ch. 170, § 1; 1984, ch. 67, § 59; 1987, ch. 99, § 13.

Amendment Notes. — The 1987 amendment substituted the current provisions for "rules and regulations adopted pursuant to

this act and any amendments thereto shall be published in a newspaper having general circulation in the state, and filed in the office of the commission and with the Division of Archives."

73-18-20. Enforcement of chapter — Authority to stop and board vessels — Disregarding law enforcement signal to stop as misdemeanor — Procedure for arrest.

(1) Any law enforcement officer authorized under Chapter 1a, Title 77, may enforce the provisions of this chapter and the rules promulgated under this chapter.

(2) Any law enforcement officer authorized under Chapter 1a, Title 77, has the authority to stop and board any vessel subject to this chapter, whether the vessel is on water or land. If that officer determines the vessel is overloaded, unseaworthy, or the safety equipment required by this chapter or rules of the board is not on the vessel, that officer may prohibit the launching of the vessel or stop the vessel from operating.

(3) An operator who, having received a visual or audible signal from a law enforcement officer authorized under Chapter 1a, Title 77, to bring his vessel to a stop, operates his vessel in willful or wanton disregard of the signal so as to interfere with or endanger the operation of any vessel or endanger any person, or who attempts to flee or elude the officer whether by vessel or otherwise is guilty of a class A misdemeanor.

(4) Whenever any person is arrested for any violation of the provisions of this chapter or of the rules promulgated under this chapter, the procedure for arrest is the same as outlined in Sections 41-6-166 through 41-6-169.

History: L. 1959, ch. 124, § 20; 1961, ch. 170, § 1; 1987, ch. 99, § 14.

Amendment Notes. — The 1987 amendment designated the former section as Subsection (1); in Subsection (1), substituted the current provisions for "Every peace officer of this state and its subdivisions shall have the authority to enforce the provisions of this act"

and deleted the former second and third sentences pertaining to designation of a primary enforcement body and authorizing stopping and boarding of vessels; and added Subsections (2) through (4).

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating § 9.

73-18-21. Violation of chapter as class B misdemeanor.

Unless otherwise specified, any person who violates any provision of this chapter or rule promulgated under this chapter is guilty of a class B misdemeanor.

History: L. 1959, ch. 124, § 21; 1987, ch. 99, § 15.

Amendment Notes. — The 1987 amendment substituted the current provisions for

"Any person who violates any provision of this act shall be guilty of a misdemeanor."

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

73-18-22. Funds collected — Disposition.

All fees, fines, donations, and moneys collected by the division, or any agencies designated to act for the division, shall be deposited in the Boating Account as restricted revenue in the General Fund of the state, to be used for the construction, improvement, operation, and maintenance of state-owned boating facilities and for the payment of the costs and expenses of the division in administering and enforcing this chapter.

History: L. 1959, ch. 124, § 23; 1961, ch. 170, § 1; 1967, ch. 98, § 2; 1969, ch. 233, § 1; 1986, ch. 197, § 13.

Amendment Notes. — The 1986 amend-

ment deleted "of parks and recreation" after "by the division" near the beginning and after "of the division" near the end, and made minor stylistic changes.

73-18-23. Separability clause.

If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the rest of this act shall not be affected thereby.

History: C. 1943, 73-18-23, enacted by L. 1961, ch. 170, § 2.

CHAPTER 18a

BOATING—LITTER AND POLLUTION CONTROL

Section		Section	
73-18a-1.	Definitions.	73-18a-9.	Public educational program.
73-18a-2.	Littering and pollution of water or lands prohibited.	73-18a-10.	Enforcement — Inspection of vessels, marinas and other boating facilities.
73-18a-3.	Marine toilets — Use without pollution control device prohibited — Containers of body waste — Discharge into waters prohibited.	73-18a-11.	Regulation by political subdivisions prohibited — Exception.
73-18a-4.	Marine toilets — Pollution control devices required — Rules established by board and Department of Health.	73-18a-12.	Rules promulgated by board — Subject to approval by Department of Health.
73-18a-5.	Chemical treatment of marine toilet contents — Rules established by board and Department of Health.	73-18a-13.	Publication of rules.
73-18a-6, 73-18a-7.	Repealed.	73-18a-14.	Violation of chapter as a class B misdemeanor.
73-18a-8.	Public marinas — Duty to maintain waste disposal facilities.	73-18a-15.	Arrest for violation — Procedure.
		73-18a-16, 73-18a-17.	Repealed.
		73-18a-18.	Act supplemental to other laws.
		73-18a-19.	Repealed.

73-18a-1. Definitions.

As used in this chapter:

- (1) "Board" means the Board of Parks and Recreation.
- (2) "Division" means the Division of Parks and Recreation.
- (3) "Human body waste" means excrement, feces, or other waste material discharged from the human body.
- (4) "Litter" means any bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, rubbish, or similar refuse discarded as no longer useful.
- (5) "Marine toilet" means any toilet or other receptacle permanently installed on or within any vessel for the purpose of receiving human body waste. This term does not include portable toilets which may be removed from a vessel in order to empty its contents.
- (6) "Operate" means to navigate, control, or otherwise use a vessel.
- (7) "Operator" means the person who is in control of a vessel while it is in use.
- (8) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a vessel. The term does not include a lessee under a lease not intended as security.
- (9) "Vessel" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
- (10) "Waters of this state" means all waters within the territorial limits of this state except those used exclusively for private purposes.

History: L. 1967, ch. 195, § 1; 1969, ch. 198, § 45; 1986, ch. 197, § 14.

Amendment Notes. — The 1986 amendment deleted former Subsections (1), (6) and (7), the definitions of "watercraft," "person," and "commission" respectively; added present Subsections (1), (2) and (6) through (9); redesignated former Subsections (2) through (5) as

present Subsections (3) through (5) and (10) respectively; and made minor stylistic changes throughout the section.

Cross-References. — Board and Division of Parks and Recreation, §§ 63-11-12, 63-11-17.1. State Boating Act, § 73-18-1 et seq.

Utah Water Pollution Control Act, Chapter 11 of Title 26.

73-18a-2. Littering and pollution of water or lands prohibited.

No person may place, throw, deposit, or discharge, nor may the operator of a vessel permit to be placed, thrown, deposited, or discharged into or upon the waters of this state, or lands adjacent to these waters, any litter, human body waste, or other liquid or solid materials which may render the water or lands unsightly, noxious, or otherwise unwholesome or detrimental to the public health or welfare or the enjoyment of the water or lands for all legitimate uses, including recreational purposes.

History: L. 1967, ch. 195, § 2; 1986, ch. 197, § 15.

Amendment Notes. — The 1986 amendment substituted "may" for "shall" preceding

"place," "nor may the operator of a vessel" for "or the operator of a watercraft shall not" and "to these waters" for "thereto."

COLLATERAL REFERENCES

Am. Jur. 2d. — 61A Am. Jur. 2d Pollution Control § 168.

A.L.R. — Liability under § 311(b)(6) of the Federal Water Pollution Control Act (33 USCS § 1321(b)(6)), of owner, operator, or person in charge of onshore or offshore facility, or vessel, for discharge of oil or hazardous substance, 55 A.L.R. Fed. 141.

Liability, under § 311(f,g) of the Federal Water Pollution Control Act (33 USCS

§ 1321(f, g)), to United States of owner or operator of onshore or offshore facility, or vessel, for discharge of oil or hazardous substance, 56 A.L.R. Fed. 343.

Liability, under § 311(i) of the Federal Water Pollution Control Act (33 USCS § 1321(i)), of United States to owner or operator of onshore or offshore facility, or vessel, for removal costs of oil or hazardous substance, 59 A.L.R. Fed. 282.

73-18a-3. Marine toilets — Use without pollution control device prohibited — Containers of body waste — Discharge into waters prohibited.

(1) No marine toilet on any vessel used or operated upon the waters of this state may be operated so as to discharge any inadequately treated human body waste into or upon waters of this state directly or indirectly.

(2) No person owning or operating a vessel with a marine toilet may use, or permit the use of, a toilet on the waters of this state, unless the toilet is equipped with facilities that will adequately treat, hold, incinerate, or otherwise handle human body waste in a manner that is capable of preventing water pollution.

(3) No container of human body waste may be placed, left, discharged, or caused to be placed, left, or discharged into or upon any waters of this state or lands adjacent to these waters by any person at any time.

History: L. 1967, ch. 195, § 3; 1986, ch. 197, § 16.

Amendment Notes. — The 1986 amendment redesignated former Subsections (a)

through (c) as present Subsections (1) through (3), substituted "vessel" for "watercraft" in Subsections (1) and (2), and made minor stylistic and word changes throughout the section.

73-18a-4. Marine toilets — Pollution control devices required — Rules established by board and Department of Health.

(1) Every marine toilet on a vessel used or operated upon the waters of this state shall be equipped with an approved pollution control device in operative condition.

(2) The board shall establish by rule, with approval by the Department of Health, as provided in this chapter, criteria or standards for definition and approval of acceptable pollution control devices for vessels.

History: L. 1967, ch. 195, § 4; 1986, ch. 197, § 17.

Amendment Notes. — The 1986 amendment redesignated former Subsections (a) and

(b) as present Subsections (1) and (2) and made minor word and stylistic changes throughout the section.

73-18a-5. Chemical treatment of marine toilet contents — Rules established by board and Department of Health.

The board shall establish by rule, with approval by the Department of Health, as provided in this chapter, standards relating to chemical treatment of marine toilet contents.

History: L. 1967, ch. 195, § 5; 1986, ch. 197, § 18.

Amendment Notes. — The 1986 amendment substituted "board" for "commission,"

"Department" for "state board" and "provided in this chapter" for "hereinafter provided" and deleted "or regulation or code" following "rule."

73-18a-6, 73-18a-7. Repealed.

Repeals. — Laws 1987, ch. 99, § 20 repeals §§ 73-18a-6 and 73-18a-7, as amended by Laws 1986, ch. 197, §§ 19 and 20, relating to marine

toilet pollution control devices, effective April 27, 1987.

73-18a-8. Public marinas — Duty to maintain waste disposal facilities.

The owner or whoever is lawfully vested with the possession, management, or control of a public marina or other public waterside facility used by a vessel for launching, docking, mooring, and related purposes shall be required to have, and properly maintain, waste receptacles or similar devices of proper design for the depositing of waste, litter, and human body waste, as required at locations where they can be conveniently used by a vessel's occupants. Waterside toilet facilities may be required if their absence contributes to or creates unsightliness or a hazard to the public health and welfare.

History: L. 1967, ch. 195, § 8; 1986, ch. 197, § 21.

Amendment Notes. — The 1986 amend-

ment in the first sentence substituted "a vessel" for "watercraft" and "a vessel's" for "watercraft" and made minor stylistic changes.

73-18a-9. Public educational program.

The division may undertake and enlist the support and cooperation of all agencies, political subdivisions, and organizations to conduct a public educational program designed to inform the public of the undesirability of depositing trash, litter, and other objectionable materials in the waters of this state and the penalties provided by this chapter for such action. The division may use funds provided by the Legislature for this purpose. The division may utilize all means of communication in the conduct of this program.

History: L. 1967, ch. 195, § 9; 1986, ch. 197, § 22.

Amendment Notes. — The 1986 amendment substituted "division may" for "commis-

sion is hereby authorized to" in the first and third sentences and made various stylistic changes throughout the section.

73-18a-10. Enforcement — Inspection of vessels, marinas and other boating facilities.

Enforcement of this chapter or the rules promulgated under it shall be by law enforcement officers. Any vessel in this state is subject to inspection by the officers for the purpose of determining whether the vessel is equipped in compliance with this chapter. If the vessel is not so equipped, the division may suspend its registration until the proper installation is completed or the marine toilet is sealed in a manner which prohibits its use. The division may inspect marinas or other waterside public facilities used by vessels for launching, docking, or mooring purposes to determine whether they are adequately equipped for proper handling, storing, or disposal of waste, litter, or human body waste.

History: L. 1967, ch. 195, § 10; 1986, ch. 197, § 23; 1987, ch. 99, § 16.

Amendment Notes. — The 1986 amendment rewrote this section.

The 1987 amendment in the first sentence

substituted "law enforcement officers" for "officers officially designated by the division" and in the third sentence substituted "registration" for "certificate of number."

73-18a-11. Regulation by political subdivisions prohibited — Exception.

Through the passage of this chapter, the state fully reserves to itself the exclusive right to establish requirements concerning the disposal of human body waste and litter from a vessel. To ensure statewide uniformity of the disposal of litter or human body waste from a vessel, regulation, other than the adoption for local enforcement of state rules, by any political subdivision of the state is prohibited.

History: L. 1967, ch. 195, § 11; 1986, ch. 197, § 24.

Amendment Notes. — The 1986 amendment rewrote this section.

73-18a-12. Rules promulgated by board — Subject to approval by Department of Health.

The board may promulgate rules under Chapter 46a, Title 63, Utah Administrative Rulemaking Act which are necessary for the carrying out of duties, obligations, and powers conferred on the division by this chapter. These rules shall be subject to review and approval by the Department of Health. This approval shall be recorded as part of the rules.

History: L. 1967, ch. 195, § 12; 1986, ch. 197, § 25.

Amendment Notes. — The 1986 amendment rewrote this section.

73-18a-13. Publication of rules.

The rules promulgated under this chapter shall be published as required by the Utah Administrative Rulemaking Act.

History: L. 1967, ch. 195, § 13; 1984, ch. 67, § 60; 1987, ch. 99, § 17.

Amendment Notes. — The 1987 amendment substituted the present provisions for "A copy of the regulations adopted pursuant to

this act and any of the amendments thereto, shall be filed in the office of the commission and with the Division of Archives. Rules and regulations shall be published by the commission in a convenient form."

73-18a-14. Violation of chapter as class B misdemeanor.

Unless otherwise specified, any person who violates any provision of this chapter or rule promulgated under this chapter is guilty of a class B misdemeanor.

History: L. 1967, ch. 195, § 14; 1986, ch. 197, § 26; 1987, ch. 99, § 18.

Amendment Notes. — The 1986 amendment rewrote this section.

The 1987 amendment substituted the present provisions for the former Subsection (a) which read "Any person who violates any

provisions of this chapter or rules of the board adopted pursuant to it is guilty of a class B misdemeanor" and former Subsection (b), pertaining to violation of rules.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

73-18a-15. Arrest for violation — Procedure.

Whenever any person is arrested for any violation of the provisions of this chapter or rule promulgated under this chapter, the procedure for arrest is the same as specified in Sections 41-6-166 through 41-6-169.

History: L. 1967, ch. 195, § 15; 1986, ch. 197, § 27; 1987, ch. 99, § 19.

Amendment Notes. — The 1987 amend-

ment rewrote this section to the extent that a detailed analysis is impracticable.

73-18a-16, 73-18a-17. Repealed.

Repeals. — Laws 1987, ch. 99, § 20 repeals § 73-18a-16 and 73-18a-17, as amended by

Laws 1986, ch. 197, §§ 28 and 29, relating to arrests for violations, effective April 27, 1987.

73-18a-18. Act supplemental to other laws.

This act shall not be construed as repealing any laws of the state relating to the pollution or littering of waters or lands thereof or any conservation laws, but shall be held and construed as auxiliary and supplemental thereto.

History: L. 1967, ch. 195, § 18.

Severability Clauses. — Section 19 of Laws 1967, ch. 195 provided: "If any provision of this

act, or any application of any provision to any person or circumstance, is held invalid, the rest of this act shall not be affected thereby."

73-18a-19. Repealed.

Repeals. — Laws 1987, ch. 99, § 20 repeals § 73-18a-19, enacted by Laws 1986, ch. 197, § 30, relating to enforceability of rules estab-

lishing criminal penalty, effective April 27, 1987.

CHAPTER 18b

WATER SAFETY

Section		Section	
73-18b-1.	Water safety rules and regulations — Adoption.	73-18b-3.	Violation of regulations — Misdemeanor.
73-18b-2.	Filing and publishing regulations.	73-18b-4.	Enforcement of regulations.

73-18b-1. Water safety rules and regulations — Adoption.

The Utah state park and recreation commission is hereby authorized and empowered to make, adopt, promulgate, amend and repeal all rules and regulations necessary or convenient to promote safety in swimming, scuba diving, and related activities on any waters where public boating is permitted. In this connection, the commission may consider recommendations of and cooperate with other state agencies and the owners or operators of said waters.

History: L. 1967, ch. 171, § 1.

Compiler's Notes. — The policy-making functions and powers and duties of the Utah state park and recreation commission are transferred to the Board and Division of Parks

and Recreation within the Department of Natural Resources. See § 63-11-12.

Cross-References. — State Boating Act, § 73-18-1 et seq.

COLLATERAL REFERENCES

Am. Jur. 2d. — 12 Am. Jur. 2d Boats and Boating §§ 7, 8, 14.

A.L.R. — Liability of owner or operator of powered pleasure boat for injuries to swimmer or bather struck by boat, 98 A.L.R.3d 1127.

Liability of owner or operator of pleasure boat for injury or death of guest passenger, 35 A.L.R.4th 104.

73-18b-2. Filing and publishing regulations.

A copy of the regulations adopted pursuant to this act and any amendments thereto shall be filed in the office of the commission and with the Division of Archives and shall be published in a convenient form.

History: L. 1967, ch. 171, § 2; 1984, ch. 67, § 61.

73-18b-3. Violation of regulations — Misdemeanor.

Any person who violates any regulations of the Utah state park and recreation commission made pursuant to this act shall be deemed guilty of a misdemeanor.

History: L. 1967, ch. 171, § 3.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

73-18b-4. Enforcement of regulations.

Enforcement of the regulations of the Utah state park and recreation commission made pursuant to this act shall be by officers designated by the commission. Such officers shall have the same authority in making arrests and responsibility in arrest procedures as they have in their other enforcement activities.

History: L. 1967, ch. 171, § 4.

CHAPTER 19**COLUMBIA INTERSTATE COMPACT**

Section	Section
73-19-1 to 73-19-5. Superseded.	73-19-9. Utah representative on Columbia Compact Commission.
73-19-6. Ratification.	73-19-10. Errors in copying not to invalidate ratification.
73-19-7. Text of compact.	
73-19-8. Original compact — Act as ratifying.	

73-19-1 to 73-19-5. Superseded.

Superseded. — Sections 73-19-1 to 73-19-5 (L. 1961, ch. 171, §§ 1 to 6), constituting the ratifying provisions and text of the Columbia Interstate Compact entered into at Spokane,

Washington, on October 3, 1960, were superseded by Laws 1963, ch. 176, §§ 1 to 6. For present provisions, see § 73-19-6 et seq.

73-19-6. Ratification.

The Columbia Interstate Compact entered into at Portland, Oregon, on the 8th day of October, 1962, by the Columbia River Basin states, namely Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, by the representatives of those states with the approval of the representative of the United States of America is unconditionally ratified, approved and confirmed for and by the state of Utah.

History: L. 1963, ch. 177, § 1.

COLLATERAL REFERENCES

Washington Law Review. — Save the Columbia River for Posterity or What Has Posterity Done for You Lately?, 41 Wash. L. Rev. 838.

73-19-7. Text of compact.

The text of said compact is as follows: